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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/069,074	02/21/2002	Heinz Focke	Q68394	9105

7590 08/11/2004

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2100 Pennsylvania Avenue N W  
Washington, DC 20037-3213

EXAMINER
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MUSSER, BARBARA J

ART UNIT	PAPER NUMBER
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1733

DATE MAILED: 08/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/069,074

Applicant(s)

FOCKE ET AL.

Examiner

Barbara J. Musser

Art Unit

1733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 3, 4, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Focke et al. in view of Froehlig, and Dexter.

Focke et al. discloses a method of forming cigarette packages wherein a continuous web of paper is separated into blanks which are used to form cigarette packs. (Figures 1 and 6; Col. 3, ll. 15-31) The reference indicates adhesive is used to form the packages and suggests that at least a portion of the adhesive is applied before the web is cut into blanks since the reinforcing edge is bonded before the blanks are cut. (Col. 3, ll. 28-32; Figure 6) One in the art would appreciate that the remainder of the adhesive, i.e. the portion used to form the blank into a container, could be applied to the blank while it was still on the web so that only one adhesive applicator was required.

The reference does not disclose using a contact adhesive wherein the adhesive only bonds to itself. Froehlig discloses a method of making a package wherein a flat layer has an adhesive which only bonds to itself coated on certain areas so that the adhesive contacts itself when the sections are joined together forming the package. (Col. 2, ll. 20-31) It would have been obvious to one of ordinary skill in the art at the time the invention was made to use an adhesive which only bonds to itself in Focke et al. since

this would allow application of the adhesive at a different time than immediately before formation of the package.(Col. 1, ll. 31-34)

Although the references do not specifically state the continuous web is fed from a roll, one in the art would appreciate that continuous webs of paper typically come from rolls.

The references do not disclose that the adhesive is applied to the web prior to formation of a roll or that the adhesive is applied to the web such that it does not contact itself on the roll. Dexter discloses applying contact adhesive to a roll on opposite sides in locations such that it would not contact itself on the roll.(Figure 14) It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the adhesive to the web so that it would not contact itself on the roll and to apply the adhesive before forming the roll since if the adhesive contacted itself it would bond and since Dexter discloses it is known to apply contact adhesive to webs on rolls so that the adhesive does not contact itself on the roll(Figure 14) and to apply the adhesive to the web before forming the roll since this would allow application of the adhesive separately from forming the final product as shown by Dexter.(Figure 14)

Since the adhesive bonds only to itself, one in the art would appreciate that adhesive would be located on both sides of the blank as otherwise the overlapped sides would not bond to each other.

Regarding claim 3, one in the art would appreciate that if the adhesive on one side of the web were not offset laterally with respect to the adhesive on the other side of

the web, the lines of adhesive would contact and bond, destroying the usefulness of the web and would offset the adhesives on different sides for that reason.

Regarding claim 4, Focke et al. discloses Z-folding to form a double layered base strip.(Col. 1, ll. 57-60; Figure 10) One in the art would appreciate that for the folds to remain attached to one another, the adhesive on the folds would have to line up when the folds were brought into contact with one another.

2. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 6 above, and further in view of Miles et al.(U.S Patent 4,770,320).

The references cited above do not disclose coating the web to prevent the adhesive from bonding to it. Miles et al. discloses applying a release coating to a paper substrate to prevent it from bonding to an adhesive when it was not desired to bond to the adhesive.(Col. 2, ll. 48-57) It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply a release coating to portions of the web not containing the adhesive since this would prevent the adhesive from accidentally bonding to them(Col. 2, ll. 48-57) and this would allow the use of a stronger adhesive.

3. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 6 above, and further in view of Anderson(U.S Patent 3,804,235).

The references cited above do not disclose applying a revenue stamp or that the stamp and its corresponding location on the cigarette package contain the contact adhesive. Anderson discloses revenue stamps are required for items such as

cigarettes.(Col. 1, ll. 21-25) It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply a revenue stamp to a cigarette container since such are required.(Col. 1, ll. 21-25) It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a contact adhesive on both the stamp and its corresponding location on the cigarette package contain the contact adhesive since this would prevent the stamp from sticking to anything else prior to placement on the cigarette package.

#### ***Response to Arguments***

4. Applicant's arguments filed 5/18/04 have been fully considered but they are not persuasive.

Regarding applicant's argument that Froehlig fails to disclose applying the glue to a continuous strip of material, Dexter discloses how a contact adhesive can be applied to both sides of a continuous web of material.

Regarding applicant's argument that Froehlig does not disclose applying glue to both sides of the web, the glue application locations are dependent on how the web is folded into its final shape. When a box such as that of Focke is desired, one in the art would appreciate that the adhesive would be on both sides of the web as otherwise the two ends of the box would not overlap and form a seam.

5. In response to applicant's argument that Dexter is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention.

See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, the reference is reasonably pertinent to applicant's problem, namely the problem of glue contaminating the machinery.(Col. 2, ll. 63- Col. 3, ll. 12)

Regarding applicant's argument that Dexter discloses the adhesive is applied on one side only, Figure 14, shows the adhesive is applied to both sides of the web.

Examiner does not recommend the exhibits be added to the specification.

### **Conclusion**

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barbara J. Musser whose telephone number is (571)

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Art Unit: 1733

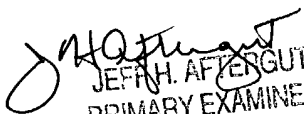
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272-1222. The examiner can normally be reached on Monday-Thursday; alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Blaine Copenheaver can be reached on (571)-272-1156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
BJM

  
JEFF H. AFTERGUT  
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